

## Winnemem Wintu position regarding Shasta Dam

**ABSTRACT**

Prepared for the Senate Select Committee Hearings in Washington DC, June 4, 2002

The Winnemem Wintu are an historic tribe of California. Once many in number, the Winnemem and the other 8 bands of Wintu, have lived through the holocaust that is California's gold rush legacy. Numbering well over 20,000 souls prior to 1848 the Wintu and the Winnemem in particular were reduced to 395 surviving people by the turn of the 20<sup>th</sup> century. Un-ratified treaties, unscrupulous land deals and cultural genocide have plagued the Wintu people. The Winnemem, however, have remained true to the traditional lifeways of their grandfathers and grandmothers, continuing to care for their ancestral lands in the shadow of Mt Shasta to the north down the McCloud River and its tributaries to Bear Mountain to the south.

Since 1889 the Winnemem have fought for their rights as signed for in the 1851 Treaty at Reading's Ranch, also known as the "Cottonwood Treaty", the government proposed purchasing land for the Winnemem along the McCloud River (Sections 1, 11 or 31, Township 34N, Range 4W MDM). This was never accomplished due to the speculation of a large dam that would be built that would supply water and power to the people of the state. Knowing this, the government gave land allotments to the Winnemem along the McCloud and there we lived until the construction of Shasta Dam began in 1938. Our testimony will describe the effects of the dam's original raising and the effects that will come from the proposed increase of the dam's elevation by the federal government. We will discuss the effects on our culture, our elders, our sacred places we continue to utilize and most importantly the devastation that will come to our people, again, at the hands of the Great Fathers in Washington DC.

We will again ask the question proposed in the original Wintu- ana Petition of 1889 wherein Norel Putis asked "Should you our high chief be unable to obtain this justice which would be of small cost to the American Nation but precious to our people then we beg you to inform us so we may see our position and know at last that there is neither justice nor equality in this white man's Republic."

Submitted for your consideration this date: May 31, 2002

We will have a full written text of testimony ready prior to the hearing on June 4, 2002 for submission as adjunct material.

Mark Franco and Caleen Sisk-Franco  
Winnemem Wintu Tribe

To Understand the Present We must look to the Past:

A LITTLE JUSTICE FOR WINTU INDIANS

"Great nations, like great men, keep their word."  
Justice Hugo Black, commenting on Indian treaties.

Wintu Spiritual Doctor, Florence Jones says, *"If our sacred fires are not built, our children will not learn."* She also says, *"I've helped many people and have so often traveled far to help them. I have prayed for every human no matter what race, so that the world will last a little longer for us all. Not once have I asked for anything back. Now my own people are to be driven from our land again. So, I am asking for a little justice for my people. Couldn't just this once, someone help my people?"*

Florence Jones was 75 years old when she made this statement; she is now 93 and asks that we again contact the government for redress of the tragedy that has befallen her Winnemem Wintu people. The following abstract is but a small window into the history of the Winnemem Wintu. This story is, on one side wrought with intrigue, deceit, tragedy and shame and the other with determination to rectify a miscarriage of American justice.

The honor of the United States and its avowed principles of freedom, due process, and self-determination will continue to suffer severely in the standing of the world community as long as the rights of the Native American Indians are not respected or protected. The leaders of the United States speak to no avail when they espouse human rights on foreign affairs. Not to say that that's wrong, but only to point out that, we, the first Americans, are still here and are still suffering from malnutrition, suicide, inadequate education, high infant mortality, unsafe-unsanitary housing, and on-going cultural genocide with no apparent solutions or consideration from the United States. Somehow, America's population has resigned its ownership and relieved its conscious of the national tragedy of the plight of the Native American Indians. Today, Indian people throughout this nation *are* suffering from the very same reasons the Civil Rights groups and Peace Centers are actively protesting the treatment of native peoples in other countries like Nicaragua and El Salvador, The Balkans, Tibet and China. The only difference is that, here the performance is less blatant. A more insidious approach can be expected and afforded by a more experienced government, practiced in methods of annihilation. The fact is cultural genocide is still happening to Indian people in the civilized democratic U.S.A. in the presences of a somewhat uninformed society.

The U.S. Government has always acted to protect "her people no matter what the cost, so that they could continue to prosper and live on land that was never rightfully opened for Public Domain. California is one of the biggest land grab rip-offs that have occurred in history. The

California Indians have been stripped of all possessions: land, timber, gold, water, minerals, fishing and hunting rights, homes, and in all too many cases, complete tribal groups were exterminated. Yet the country sang of "...the sweet land of liberty, land of the pilgrims pride, home of the free and the, brave, and celebrated the Thanksgiving holidays.

I know that my ancestors were the ones hunted and killed on the Sunday picnics in Shasta County in the 1850's to the 1890's. Who were the hunters? I know it was not the Russians or Middle Eastern terrorists, although they are the most feared enemies of the U.S. This history is not of such ancient years: My grandmother was born in 1888 and her mother was born and raised in the midst of Indian hunts. Extermination policies were practiced by farmers, trappers, miners or anyone else who had a mind to take the life of any Indian for any reason. Those stories run vivid among Indian family histories, which parallel that of the statehood of California.

By 1850, California was admitted to the union and the gold rush was on and so was the Indian extermination plan. However, relief was sought because warfare had become increasingly unacceptable to many citizens, horrified by reports of the massacring of Indian women and children. Moreover, war cost the federal government too much. In 1870, officials estimated that the Indian wars cost more than \$1 million for each dead Indian. It was cheaper to feed them for a year than to fight them for a day and impossible to move them any farther west. Therefore, in 1850, President Fillmore sent three Commissioners to California Territory to negotiate treaties with the Indian tribes. Treaties made were of "peace and friendship", instead of removal. One must remember that these treaties were not signed in defeat, but showed the Indians' willingness to accommodate themselves as much as possible to the needs of the newcomers.

The U.S. was eager to have its own citizens settle and establish legal claims to the land, but was so unwilling to agree to set aside the small tracts of land the treaties would have guaranteed for the few Indian tribes that ceded millions of acres. By 1861, the eighteen treaties made with only one-fifth of the tribes in California were un-ratified and in the process of becoming the Senate's "top secret by public demand, hidden away until 1904 when they were accidentally uncovered in the Washington D.C. archives. In 1889, Norel Putis and a delegation of Winnemem Wintu headmen sent a letter to ten President Benjamin Harrison asking for redress of their status, some modicum of payment for the loss of traditional lands and the destruction of whole villages of innocent people. Jeremiah Curtin delivered this letter to the President who authorized agents to come to California to seek replacement lands and correct wrongs. In the meanwhile, miners, settlers, trappers, and farmers called for military protection as they took possession of all the lands. Thousands of California Indians died for land that the civilized race could put to better use.

In 1790, Congress passed the Indian Trade and Intercourse Act. To recall the words of the Father of the country, President George Washington said, *"Here, then is the security for the remainder of your lands. No state, no person can purchase your lands unless at some public treaty held under the authority' of the United States. The General Government will never consent to your being defrauded but it will protect you in all your just rights.*

In making the state of California, these words were forgotten. The United States chose to ignore this statement of land security and the treaties were never ratified nor has just compensation for the defrauding ever been corrected. Because there were no treaties, the wars between the whites and Indians continued. The population Winnemem Wintu people along the McCloud River to the confluence of the Sacramento and Pitt Rivers dwindled from 14,000 in the 1850's to an estimated 385 by the 1930's. Both my grandmothers were very lucky to have survived and raised their families during this time.

In 1887, the Dawes Act (another Indian land grab scheme) actually worked in favor of some California Indians because it gave up to 160 acres to Indian applicants. Some Wintus received allotments along the McCloud River. That was fine until the 1940's when the U.S. decided the Shasta Dam held priority and would certainly benefit the country. So again, without compensation, the government drove the Winnemem Wintu from their land to allow for the "worlds largest man-made lake". The lake left our homes, farms, fisheries and our cemeteries destroyed. The dead received new homes in Black Canyon, a cemetery we still hold, but not the living.

The landless state of the Winnemem Wintu Tribe in Northern California, through various forms of alienation and dispossession, is among the most serious problems existing among us today. In 1971, a group of Wintu Indians gained control of a 61 acre, abandoned, Job Corps Center through occupation. This is the "only land base@the Wintu have and have held for the past 30 years. All the prayer grounds, sacred places, and ceremonial grounds are owned by the government or private parties. Although, the Winnemem Wintu have been able in recent years to secure easements to some sites privately held. The Wintu Tribe filed a lawsuit against the Bureau of Indian Affairs, in essence against the U.S., in an attempt to stop them from taking the 61 acres known as the Toyon Wintu Center. The Bureau of Indian Affairs *is* supposed to act in the "utmost good faith" and in the "best interest" of the Indians on behalf of the U.S.

The BIA began to fulfill their fiduciary trust relationship responsibilities to the Wintu Tribe on a very minute scale when, in 1973, they contracted a Use Permit allowing the Wintu to control the Toyon Center. This use permit provided the opportunity for self-determination, which was a stated policy of President Reagan's Administration. In 1985, a Mr. Christie (Hoopa Agency), and Mr. Babby (Central Agency) BIA as well as other personnel said that because the Wintu are not a "federally recognized" tribe, they are not Indians. Therefore, they (the BIA) have no trust responsibility or fiduciary obligations to the Wintu. They (the BIA) claimed that the 34 federally built houses were generally unsafe and unsanitary. They saw the only solution to this condition was to bulldoze all the structures at a cost of \$205,000 dollars. When this was accomplished, the BIA turned the 61 acres of destroyed, rubble-strewn land back to the General Services Administration.

At this point, the BIA completely robbed the Wintu Tribe of our self- sufficient livelihood at the Toyon Wintu Center. A government task force documented that worse housing conditions exist on federally recognized reservations and rancherias. Local housing authorities at the time agreed

that the 34 two, three, and four bedroom houses could easily be rehabilitated at very reasonable low cost. For \$205,000 dollars, the BIA destroyed 34 homes for low-income people; money more wisely used to remodel the homes when there is already a shortage for such housing. The planned eviction of the over 100 residents occurred with only a Superior Court decision holding them from carrying out their orders; The BIA claims that without federal recognition the Wintu have no legal right to Toyon.

In 1985, access to federal assistance available to Indian people was revoked as the Winnemem Wintu, Nor-el Muk, and Wintu people from scattered bands were denied their right to educational, housing, health, and other services guaranteed Indian people. The Zarr decision said, in effect, that the United States government agreed that Indian tribes could decide their membership, but the government would determine the tribes. Thus, the homeless Indians residing on Rancherias, federal trust lands, were deemed recognized and those, like the Winnemem Wintu who maintain the traditional sacred places, not held in trust, were deemed non-federally recognized. A pathetic note regarding the Rancheria tribes is that the Winnemem Wintu sent a delegation to Congress in the 1920's fighting for land for the homeless Indian people who we supported on our home territory. The irony is that these same homeless Indians are the ones called upon today by the government to decide what occurs within our sovereign territory and what happens with our sacred sites and repatriation issues.

If we are "unrecognized" then we must still be at war with the United States over our land. Our claim is that we are recognized and have been throughout history by the United States government, California's state government and our local governmental agencies.

- In the 1840's Richard Henry Dana writes of contacting Wintu people
- In 1851, Commissioner Wozencraft made a treaty that reserved 35 square miles of land beginning at Cottonwood Creek following north along the Sacramento River.
- In 1887, we were included in the Allotment Act (Dawes Act)
- In the mid 1880's, the Baird Fishery was established on the McCloud River using Winnemem Wintu laborers
- In 1889 Jeremiah Curtin carries the Norel Putis letter to President Benjamin Harrison
- In 1924, we were granted citizenship under the Snyder Act
- In 1928, a large Winnemem Wintu delegation traveled to San Francisco to sign up for lands claims. A photo of the event is listed in Smithsonian holdings
- In 1928, the California Tribes were allowed to sue the United States
- In 1934, we were included in the Johnson O'Malley Act
- Until 1956, we too were not allowed to legally purchase alcohol
- In 1964 we too were excluded in the Civil Rights Act by the Humphrey Administrations' vote of 61 to 30
- In 1928, 1954, and 1968 we proved our rights to California land and were listed on the California Indian Roll Books held by the BIA.
- In 1972, we were included in the Indian Self-Determination Act

In 1976, we were included in the American Indian Religious Freedom Act (through this Act our Wintu Spiritual leader was granted use of several sacred places by a branch of the Federal Government).

We are in possession of United States Fish and Wildlife Service permits to hold eagle feathers

We are in possession of United States Forest Service permits to collect and harvest medicinal plants and unlimited use of our sacred sights

The Bureau of Land Management holds the Indian Cemetery at Black Canyon under the Wintu Tribe/Winnemem Wintu name

We are in possession of newspaper articles as far back as 1852 noticing events and occurrences involving Winnemem Wintu Indians

None of the above-mentioned Acts state that only recognized tribes are to be affected by the enacted legislation.

We contend that we are in fact "the people of this land". We are the historically recognized tribe and have repeatedly been recognized by the Federal Government. The Wintu have every right to the 61 acres of the Toyon Wintu Center, land that no one else wanted. The Winnemem have every right to compensation for the loss of our lands, water and timber, minerals and livelihood. We have applied for recognition under the BAR process, only in response to a request by the government to meet requirements set forth in the stipulation agreement. We know that it may take upward to 10 years for the government to decide if they want to federally recognize a tribe; although the distinction between recognized and unrecognized *is* not necessary and seems to only serve the purpose of separating Tribes as a whole. The BIA insists that a tribe must be recognized for them to become involved. In the meantime, they will take the land again and set rules that make access to our places nearly impossible.

There are, however, other methods of recognition available. The President of the United States could grant recognition by Executive Order. Based on the information and data already certified by the BIA found in the California Indian Roll Books, recognition could be granted immediately. Another option is a Technical Correction whereby the BIA simply lists the Winnemem Wintu in the Federal Register because we were inadvertently omitted in 1985. A third method would be through legislation (to which we have submitted several draft versions for congressional support. Finally, we could sue the BIA in Federal Court utilizing the same rationale as the Muwekma Ohlone.

Is there no relief or support from the public to stop this government action? If not, the result is the Redding Museum and libraries will be the few places you will find information about Wintu Indians. It will be a shame to refer to the Wintu in the past tense. Everything you say will begin with "used to..." "They used to live here, used to dance here, used to fish, they used to..." It is hard to preserve the last of the Traditional Wintu ways in today's society, much less, to do it when our old people are dying and our people are scattered everywhere and struggling just to have a place to live.

Trying to gain that little bit of JUSTICE is one of the most costly, lengthy, and exhausting tasks that our Tribe faces today. Our challenge is to maintain control of our own lives, maintain our traditions, and above all, keep our dignity.

### **The River prior to the Dam**

The Winnemem have long lived in the watershed of the McCloud River. Winnemem means Middle Water in our language. Our territory is from Mt Shasta in the north down the McCloud and its tributaries to Bear Mountain in the south.

Our villages have always been close to the swift moving waters of the McCloud, a fact that assisted our ancestors in staving off the ague and malarial fevers that accompanied the first non-Indians to our land in the 1840's. In order to understand the importance to the culture of the Winnemem Wintu people, one must first look at the history of the tribe as it is known to the non-Indian. The following information is as recorded by non-Indian historians, anthropologists and others who have since the 1840's been exploring the cultural world of the Winnemem in all of the different names and descriptions ascribed to us. We have been known variously as: Northern Wintoon, Baird Indians, Okwanuchu (a Shasta Indian word for the people of the north) Oyalca / Wailacca (various spellings meaning northern people), Northern Wintun, Baird Auxiliary and many others. We call ourselves the Winnemem Wintu (Middle water people).

### **A Brief History:**

#### 1851 Cottonwood Treaty

The Winnemem Wintu, represented by Num-te-re-man, were signers of the August 15<sup>th</sup>, 1851 treaty made and concluded at Reading's Ranch on Cottonwood creek, State of California between O.M. Wozencraft, US Indian Agent for Northern California, and the Chiefs, captains and headmen of the different bands of Wintu Indians. This treaty, never ratified, would have provided a 35-mile square reservation for the Wintu people.

#### 1889 Norel Putis Letter to Benjamin Harrison

The Wintu-Yana Petition, as this letter is referred to, was a direct plea by the Winnemem Wintu to the United STATES Government for clarification and rectification of the conditions heft on the Winnemem due the incursion of non-Indians onto Winnemem land as a result of the duplicity of the un-ratified Cottonwood Treaty. The letter pleads for better treatment of the Winnemem, other Wintu bands and the Yana, all of whom had suffered horribly at the hands of the non-Indian. The letter concludes by asking for justice for the Wintu. This letter became a catalyst for the purchasing of lands for AHomeless, landless Indians, the Rancheria act and the inclusion of California Indians in the Allotment Act of 1887.

#### 1890 Tinker letter

AM Tinker is sent to California by the Private Secretary to the President of the US to investigate the Wintu/Yana petition and the claims they made. This letter specifically states the condition of the Baird Indians and that Allotments may be the answer for the Baird Indians who

do not wish to be moved from the McCloud River.

1891 Michael Piggott letter

This letter specifically states that the Baird Band of Indians or the McCloud River Indians are eligible and deserving of the government's assistance to find land for their homes. Michael Piggott is sent to California by the Commissioner to fill out Allotment applications for the Wintu and other Indians in need.

1893 Allotments

Grover Cleveland, President of the United States, authorized the issuance of land allotments to members Winnemem Wintu Tribe. These allotments of 160 acres allowed the Winnemem to remain on the river.

1897 Last Dance

The Winnemem hold what the whites called their last war dance at Baird. This event was captured on film and shows William Curl in his traditional dance regalia along with other prominent Winnemem men. The ceremonies will now be held in secret away from the non-Indian people. Other non-ceremonial events will continue throughout the next 50 years as the people continue to celebrate together. The medicine ceremonies remain in the hands of the traditional leadership to protect the sacred places and ensure the continuance of the culture. Although this was called a last dance, the Winnemem continued to hold ceremony in secret, away from non-Indians as a form of self preservation.

1914 Baird Indian Appropriation letter

October 3, 1914, Horace Wilson, Supervisor within the Department of Interior submitted to the Commissioner of Indian Affairs in Washington DC a letter indicating that the Baird Indians along the McCloud River should have purchased for them a tract of land. The Winnemem were included in lists of deserving Indian bands and as the letter indicates, the others listed eventually received land bases but the Winnemem (Baird) band did not.

1915 John Terrell letter to Cato Sells

On April 20, 1915, agent Terrell reports on his progress while purchasing lands for California's Indian. Terrell describes the Indians near Redding as not fitting within the guidelines of the Allotment Act. He states, however, that the Baird (Winnemem) Indians, in need of homes. On page 4 of his letter he acknowledges a Wintu Tribe. He further states that he investigated lands above the government fishery at Baird and proposes the purchase of these lands for the Winnemem. He describes the self-sufficiency of the Winnemem based on the salmon and other sustenance crops. DP Doak who owns several tracts of this land is approached and is mentioned in later letters. This letter also includes a census of the Indians present, which includes the name of Flora Curl age 5. Florence Curl Jones is now 95 and still the leader of the Winnemem people.

1915 DP Doak declines sale

**In August 1915, Terrell reports to Washington that DP Doak, the man who had obtained land on the McCloud River, refuses to sell land for the Indian Allotments,**

**waiting instead for higher prices due to speculation of the building of a new dam that would provide power to the state. Doak states that he will not cause problems for the Indians living on his land. The letter also states that the government will provide lands for the Indians once removed due to the dam's construction.**

1922 Redding Rancheria

Redding Rancheria created for homeless Pit River, Yana and Wintu from desolate bands. Winnemem remain on River awaiting response to inquiries.

1924 San Francisco Exposition

Wintu people from all bands travel to San Francisco to celebrate the Snyder act.

1925 Baird Auxiliary

The Winnemem Wintu form a group called the Baird Auxiliary to address the US Court of Claims for the lost 1851 Treaties.

1928 First of Many Trips to Washington DC

Joe Campbell and Alfred Gillis, Winnemem Wintu, travel by train from San Francisco to Washington DC to express the need for an investigation of council who were charged with pressing the Winnemem case and the manipulation of the law relative to the lost 1851 treaties.

After the Dam

1938 Construction begins on Shasta Dam

This dam creates the largest man made lake in North America and will eventually inundate Winnemem territory along the lower McCloud River

**Florence Curl relocates from the flooding McCloud River at Baird to the village site located at the eastern base of Bear Mountain. This property was then owned by Andy Jones who Florence marries. The village is called Kerikmet. It is one of 16 villages surrounding Bear Mountain and the only one still inhabited into the 21<sup>st</sup> century by Winnemem Wintu people.**

1941 Winnemem Wintu delegates again come to Washington to fight for the passage of SB1112, a bill which will allow California Indians the right to employ their own attorneys to press claims against the government. The Winnemem are aware of the proposed settlement of the claims case and try to warn other tribes that it is unacceptable.

Pearl Harbor- over 50 Wintu men serve in the US armed forces. Also, The United States Shasta Reservoir Indian Cemetery is created by act of Congress, approved July 30, 1941 (55 Stat. 612) By terms of said act of Congress the title to the Indian Cemetery is held in trust by the United States for the burial of Indians only and will be held for the Indians and their families.

1942 Winnemem remaining along the river actively lobby against the California settlement proposed offer.

1943 Winnemem are removed from their homelands on the lower McCloud River (Baird area). Water will soon inundate these village areas and sacred sites due to the filling of Shasta Lake.

1944 California Claims Pay out

US Court of claims awards 17 Million dollars to all California Indian to compensate for the 18 unratified treaties. This works out to 1.25 per acre. The government deducted 12 million for the 600 thousand acres made into Rancheria and reservations. Winnemem did not receive their land but Winnemem continued to press their claim for lands within the homelands and the allotment denials for children of previous allottees.

1950's

Former president Herbert Hoover heads California commission endorsing termination policies for California. This termination sentiment prompts Congress to pass House Concurrent resolution 108 Aug. 1, 1953, that declares all Indians should be free of government control and eligible for services available to any citizen. Within two weeks Public law 280 enacted which, transfer responsibility for Indian policy from the federal government to state and local agencies. Interim committee from California senate holds hearing in 1954 and finds most reservations are unprepared for termination. State of California does not want to accept responsibility for financially correcting the BIA's financial failures and fights federal termination legislation. Despite this, Aug 15, 1958, the first California Rancheria Bill is enacted. 41 rancherias throughout California are terminated. Winnemem continue to oppose the settlement offer of 1.25/acre this continues, actively from 1943 to 1963.

1960's

During the turbulent 60's the Winnemem continue to oppose the land claims decision. The sixties saw a rise in radicalism and more Indians went to colleges and universities as well as vocational programs. Winnemem students begin to come home with vocational training paid for by BIA funds. Toward the end of the decade, as surplus government land was being seized by Indian groups, plans began for the Wintu to occupy Toyon.

1970's

During this decade numerous Winnemem Wintu are attending colleges utilizing BIA higher education grants. These will later be denied to the same Individuals as the Bureau tells them they are not Indians. The Winnemem challenge this arbitrary action in *Malone vs. Morton*. This opens the right for Winnemem to challenge on a case-by-case basis the right to funding as Indian tribal members.

1971

Toyon Center, an abandoned government housing project, developed for the builders of Shasta dam occupied by the Winnemem, other Wintu band members and other outside Indian people. This site was help until 1989 when the government forced the residents out and bulldozed all of the building to the ground. The Winnemem continue their efforts to resolve treaty violations and

continue their ceremonies, which had been held, under ground since 1897.

1978

Florence Jones is successful in her suit brought under the Indian Religious Freedoms act and receives a use permit to opening practice the Winnemem ceremonies on what is now considered US Forest Service land. This is believed to be the 1<sup>st</sup> successful use of the AIRFA. This current permit with the USFS expires in 2005 and will be renewed in the name of Florence's successor.

1980's

Ceremonies continue openly for the Winnemem and permits and MOAs are developed for the protection of tribal gathering places, ceremonial sites and sacred places. The Winnemem Wintu work with government agencies and programs in the areas of education, health and housing. In 1985, word is received that IHS services will be terminated for Winnemem tribal members. The Winnemem begin asking why the government is doing this. In 1986, Caleen Sisk Franco receives a federal Fish and Wildlife Permit under 16 USC 668a and 50 CFR Part 13 and 50 CFR 22.22. This permit allows her permission to hold and carry Eagle feathers, parts and or carcasses and is an indefinite use permit.

1987-89 B the Winnemem continue with ceremony and support the Wintu-Toyon group in their fight to retain Toyon Center.

1989-90 B The BIA completes destruction of Toyon and during cleanup burns down a building designated in a stipulation agreement filed in federal court to serve as an administration building. This stipulation agreement also forces the Wintu-Toyon group to file a petition under the FAP to hold the land. The Winnemem support the other bands efforts in this application but continue to seek redress for their concerns of whom and what authority granted the BIA government the right to cease dealing government to government with the Winnemem? This occurred despite other government agreements between the Winnemem and the USFS, BLM, and USFWS. The Winnemem continue to hold meeting with Caltrans, US Forest Service, BLM and other state and local agencies to protect herbal gathering areas, sacred places and waterways.

1987-1999 B The Winnemem engage in a lawsuit against the Forest Service to stop development of a ski resort on Mt Shasta. This ends in victory for the tribe.

1990's

June 16 1990, Caleen Sisk Franco, her husband Mark, nephew Rick Wilson and Susan Marie engages in a fast for acknowledgement, under the direction of Winnemem spiritual and tribal leader, Florence Curl Jones, in an attempt to seek clarification of the Winnemem's tribal status and to assist the other bands attain their tribal rights. This fast lasted 21 days and was brought to a close by Senator Daniel Inoyues promises to assist the Winnemem Wintu in clarifying their status.

1993 the Indian Health Service terminates service to the Winnemem Wintu. Another fast to the

death is held by Mark Franco and Rick Wilson and a delegation including Florence Jones and Caleen Sisk Franco go to Washington and speak with Assistant Interior Secretary Ada Deer. Secretary Deer informs Michael Lincoln, acting director of I.H.S to resume services in order to prevent a preventable tragedy.

1995 Florence Jones retires and begins transitional process for the new leader of the Winnemem Wintu. Caleen Sisk-Franco is appointed her successor and continues the ceremonies and tribal leadership. Additional permits are obtained from the federal government and easements, granted by private lumber companies and facilitated by the USFS are obtain for sacred sites on private lands.

1999 The Winnemem Wintu establishes the Lubeles Academy Charter School to preserve our traditional culture while educating our children to face the challenges of the non-Indian world.

2000 to present

Charter school expanded to Barona Indian reservation and later to Yreka California. Ceremonies continue as well as work on preserving sacred sites without government assistance.

Florence Jones celebrates her 94<sup>th</sup> birthday and still asks: Who gave these people in Washington the right to take away my land, my water and my rights?

We ask you the same.

2001-2

Winnemem Wintu Delegations travel to Washington DC to seek assistance in re-affirming tribal status.

October 17<sup>th</sup> 2001 McCloud Bridge Replacement

This is the date that the Winnemem first learned that Shasta Dam was in line for an elevation change. The McCloud Bridge sits adjacent to our ceremonial sites, a large burial site and gathering location for our people. Replacing the bridge, as we learned, was a FHWA project. Research led us to the Dam rising and yet another battle to maintain our cultural areas.

2002

June 4<sup>th</sup>, Winnemem Wintu leaders Caleen Sisk-Franco and Mark Franco testify before congress on sacred sites protection. In particular the raising of Shasta Dam and the catastrophic effect it will have on remaining sacred sites and ceremonial grounds still in use after all of the years of cultural genocide.

And now

Now the Winnemem face another hurdle, one that can potentially complete the dislocation of our culture started 151 years ago. We first officially heard of the raising of the Shasta Dam, not through notice from the government (probably because you do not recognize us as a viable people) but through the good graces of a fellow California Indian whose people gave us a heads up of a CAL-FED water hearing that was to take place in Redding, California. We were told that the idea of a proposed rising of the Shasta Dam was being placed before the public for comment. This speaks volumes for the problems we face when trying to work with agencies within the federal government. Because of our non-acknowledged status, we are not included

in any communication loop; information that things are occurring generally comes to us through the moccasin telegraph that is word of mouth from other tribal groups who respect our role as traditional peoples.

An issue of concern that provided us our own heads up that something was coming was the proposed replacement of the McCloud River Bridge on Fender's Ferry Road in Shasta County.

This bridge crosses the McCloud River arm of Lake Shasta directly adjacent to numerous Winnemem village sites, ceremonial places that are still in use to this day, a large, previously undisclosed burial ground and sacred sites, documented and recorded with the United States Department of Agricultural, United States Forest Service. What led to the discovery of the dam was information that the replacement bridge was to be 10 feet higher than the original. When asked why the height disparity, the Winnemem were told that it was to allow for room under the bridge (four feet below the bridge to be above the high water mark of the lake. When the engineer was told that the height seemed really quite high, the Winnemem learned that it would be within the limits of the new dam level.

Prior to this, to our knowledge, no consultation had occurred, no environmental impact reports submitted or any National Historic Preservation Act Section 106 work had occurred.

Subsequent to this discovery, the Winnemem learned that a report had been submitted by an archeologist hired by the US Forest Service indicating that nothing of cultural significance was located within 300 yards of the proposed bridge. The date of this report and the clearance issued by the State Historic Preservation Office in Sacramento, California was approximately 6 months prior to the actual project description being submitted. At that time the Forest Service was noticed by the Winnemem of apparent blatant falsification of reports and violations under section 106 of NHPA. To date nothing has happened regarding this complaint.

Raising the level of Shasta Dam will in effect destroy the remainder of the Winnemem Cultural and religious sites near the shores of the McCloud. We ask that the congress look at the raising of the dam as an unneeded expense and one that will cause more harm than good. As the last stronghold of our cultural existence we beg for justice in this case.

The following information comes from the US Bureau of Reclamation report on the Shasta Dam enlargement. We include this section of the report, *Shasta Dam and Reservoir Enlargement - Relocations and Replacements May 1999*, with analysis from the Winnemem in red.

### ***Relocations and Replacements***

There are three main categories of relocations and replacements that are of particular concern when considering enlarging Shasta Dam and Lake. These are transportation route relocations and replacements, recreational facility relocations, and community relocations. As you can see, no mention or consideration of tribal rights or concerns is listed in this report. We were not involved in the planning of the document, no consultation occurred with the Winnemem as the people most affected by the dam in 1941 or today.

### **Recreational Facility Relocations**

There has been extensive development of rural recreational facilities around Shasta Lake. Most facilities are near the existing shoreline, although private fly-fishing clubs are known to be operating on the McCloud River in potentially inundated areas. (The Bollibakka Club, located up river on the McCloud is owned by a private concern. We have worked with the people of this club in trying to protect the river over the years and have numerous sites that are located within their property boundaries. This report indicates that areas will be inundated to us this is significant as the club is located approximately 3 miles up river from our sites, held on public lands by the US Forest Service. Recreation facilities include campsites, picnic sites, swimming beaches, boat ramps, and several historic fly-fishing club lodges. Relocation of recreation facilities and appurtenant facilities includes roads, power and telephone utilities, bridges, administrative buildings, resorts, special use permit recreation residences, and other recreational support facilities. Most recreation facilities lie above elevation 1085, with the exception of some buildings associated with fly-fishing clubs. Consequently, the Low Option raise to elevation 1084 (joint-use water surface elevation 1075.5) reduces substantially any need for relocation of recreational facilities. Some modifications to existing facilities may still be required at some sites, but complete relocation will not be required for the most part. For all options above elevation 1085, recreational facilities will be adversely affected and, to the extent possible, will need to be relocated. The portions of the McCloud River (Winnemem Sites located along the 35 mile length of this river), the Upper Sacramento River (area of concern for the Nor El Muk Wintu, Squaw Creek (Winnemem sites along this tributary), and the Pit River (numerous sites on the lower Pit River that are Winnemem) that will be subject to reservoir inundation would no longer be suitable for fly-fishing during those times when inundated. Again, the concern for fly fishing is admirable, but no mention is made of the cultural loss to the Winnemem. Raising the lake to any of the proposed elevations is not likely to affect Shasta Caverns, other than possibly limiting expansion plans under the highest elevations of opening caverns below elevation 1271.5. Shasta Caverns is a highly visited tourist attraction in the area. A privately operated company conducts tours of the caverns.

The entrance to **Samwell Cave**, however, is at elevation 1270. Filling of the reservoir will likely adversely affect this cavern, since most of the **cave** is below the entrance. The Samwell Cave (Samwell is a bastardization of the Winnemem word Sauwel or sacred. It contains the many artifacts from our people. Some items have been removed without our permission and due to the recognition situation; we are not eligible to retrieve these items through NAGPRA protection. This cave also is a site that we hold dear and is connected to other documented sites along the bank of the river. If the water rises to 1271.5 feet, it would be like standing at the base of the Capitol building in Washington and looking up to the dome that much water would be over our heads.

Other caves below elevation 1271.5 will potentially be flooded.

### **Community Relocations**

Two small communities at Lakehead and Lakeshore would be affected by the Intermediate and

High Option enlargements. Detailed topographic surveys need to be completed, but preliminary information indicates that these communities would be only minimally affected, if at all, under the Low Option, where the joint-use water level is at 1075.5. Several other smaller communities and developments would also be affected by the higher raise options. These include the communities or developments at Delta, Vollmer, and Antler, among others. These communities would have to be relocated.

Here the Winnemem can relate to the communities. Our homes, allotment lands (given knowing the dam was coming as early as 1915) ceremonial roundhouses, dance pits and sacred sites were destroyed by the first dam's rising waters. Our dead from old Antlers, Delta and Vollmer, have already been removed. As we see it the rising waters that will now affect the non-Indians who have taken the land after we were forced off must be stopped. The United States tells the world how to treat each other. The Winnemem have never had the luxury of such care. We ask that you protect your people. Even though you could protect us.

The Winnemem Wintu wish to thank you for recording our statement into the official proceedings of this hearing. We thank you not for ourselves but for our people who have gone before us, for our elder Florence Jones (95) and her daughter Grace (76) and all our young people who have grown up seeing some of the places we are fighting for today, knowing that they cannot visit many of the spiritual places until they are older and hoping that what we do here to will be of great good for our people and our heritage. We thank you from our sacred mountain, Bulyum Puyiuk (Mount Shasta) our sacred Winnemem Waket (McCloud River) and from our very being as the caretakers and keepers of our traditional lifeways.

Submitted This Date:

Mark Franco and Caleen Sisk-Franco

Winnemem Wintu